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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,350	06/23/2003	Jonathan H. Connell	YOR920030166US1	7454

7590   01/16/2007

Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

EXAMINER
ARMSTRONG, ANGELA A

ART UNIT	PAPER NUMBER
2626	

MAIL DATE	DELIVERY MODE
01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action *Before the Filing of an Appeal Brief*	Application No.	Applicant(s)
	10/601,350	CONNELL ET AL.
	Examiner	Art Unit	
	Angela A. Armstrong	2626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>29 December 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

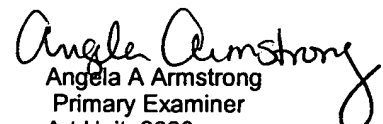   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   see attached.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Angela A Armstrong
Primary Examiner
Art Unit: 2626

U.S. Patent and Trademark Office
PTOL-303 (Rev. 08-06)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 20070109

Response to Arguments

Applicant's arguments filed December 29, 2006, have been fully considered but they are not persuasive. Applicant argues Garg fails to disclose selecting between an acoustic-only data model and an acoustic-visual data model based on a condition associated with a visual environment, and decoding at least a portion of an input spoken utterance using the selected data model and that Masai contains no disclosure relating to a selection between an acoustic-only model and an acoustic-visual model. Applicant further argues neither Garg nor Masai individually teach or suggest the limitations of the independent claims and therefore the combination of Garg and Masai also fails to teach or suggest the limitations of the independent claims.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this instance, Garg was cited for teaching a method for audio-visual speech recognition implementing an acoustic-only data model and an acoustic-visual data model. While, Garg does not specifically teach a data model is selected based on a condition associated with the environment of the speaker, it was well known in the art to provide a means for selecting an optimum data model for performing recognition based on environmental conditions so as to improve recognition accuracy and performance. Masai was cited for teaching this optimum data model selection. Masai discloses a method and device for producing acoustic models for recognition and specifically teaches the

speech recognition unit recognizes the speech data and convert them into text data in accordance with the environment information of the time when the speech data are uttered, the acoustic model for recognition selection unit selects the acoustic model for recognition according to the environment information and converts the speech data into text data by using the selected acoustic model for recognition. Thus, the combination of Garg and Masai would provide for a speech recognition system, which utilizes acoustic-only data models and acoustic-visual data models (as provided by Garg), such that the most optimum sets of acoustic only and/or acoustic-visual data models are selected and used for recognition as determined by environment information of the time when the speech data is received (as provided by Masai).

Applicant argues Masai only describes selection of an acoustic data model in accordance with surrounding acoustics, not general environmental conditions. The Examiner cannot concur, and argues that Masai, at least at paragraphs [71 and 72], teaches the environmental conditions can be a time information, a place information, a speaker's physical condition, a conversing partner of the speaker, or data regarding whether the current location is inside the company or inside the home, whether it is during the conference or during the meal. Thus, the teachings of Masai provides adequate support for the limitation and evidence that it is well known in the art to provide a means for selecting an optimum data model for performing recognition based on environmental conditions so as to improve recognition accuracy and performance.
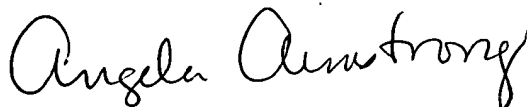
Application/Control Number: 10/601,350
Art Unit: 2626

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 571-272-7598. The examiner can normally be reached on Monday-Thursday 11:30-8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Angela A Armstrong
Primary Examiner
Art Unit 2626

AAA
January 9, 2007